



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street

San Francisco, CA 94105-3901

Certified Mail No. 7010 1060 0002 0242 5323
Return Receipt Requested

FEB 11 2013

Governor Gregory Mendoza
Gila River Indian Community
P.O. Box 97
Sacaton, AZ 85247

Re: Government-to-Government Tribal Consultation regarding the Proposed Florence Copper Project

Dear Governor Mendoza:

I am writing to continue our consultation with the Gila River Indian Community ("Community") under the National Historic Preservation Act (NHPA) Section 106 review process for the Curis Resources (Arizona), Inc. (Curis Arizona) Underground Injection Control (UIC) application regarding the proposed Florence Copper Project Production Test Facility (PTF). I also want to acknowledge our receipt and consideration of the November 21, 2012, letter outlining the Community's concerns as part of the government-to-government consultation on the UIC permitting process for Curis Arizona's proposed project.

In the November 21, 2012 letter, the Community requested a second face-to-face meeting. The United States Environmental Protection Agency, Region IX (EPA) is considering the need for such a meeting before EPA makes the decision on a draft permit. Under the consultation, EPA is considering the Community's input regarding the proposed activity prior to publishing a draft permit decision. When we make a final decision, we will provide a written response to public comments and a written response describing how we considered the Community's input.

You also directed our attention to the Community water rights guaranteed by the Gila River Indian Community Water Rights Settlement Agreement and the Arizona Water Rights Settlement Act. EPA is mindful of its trust obligation and agrees that decisions on the Curis Arizona UIC application must protect the Community's water resources, including its underground water allocation. We would appreciate receiving any additional information you have regarding the relationship between the activities proposed within the Curis Arizona Property Area, as described below, and the specific provisions of the Settlement Agreement and Settlement Act. I will provide you with a written response as to our next steps in the consultation after EPA considers this additional information.

As you know, as part of the UIC permitting process, EPA is conducting a NHPA Section 106 review process. EPA identified the Area of Potential Effect (APE) in the May 25, 2012 letter to the Community and in the July 20, 2012 letter to the Arizona State Historic Preservation Office (SHPO), pursuant to 36 CFR § 800.4, as the entire Curis Arizona Property Area ("Property Area"). The Property Area is the entire Curis Arizona Property Boundary in Sections 26, 27, 28, 33, 34, and 35 of Township 4 South, Range 9 East. Within the Property Area is a State Trust Land located in the North ½ South ½ of Section 28, Township 4 South, Range 9 East. Although the proposed PTF and the support facilities will be located on the State Trust Land, EPA is considering potential direct and indirect impacts in the entire Curis Property Area.

EPA had also requested in our May 25th letter and in a separate letter of September 12, 2012, your assistance in identifying any additional historic properties that have traditional religious and cultural importance to the Community and are listed on or may be eligible for the National Register of Historic Places, in accordance with 36 CFR § 800.4, that may be located within the Property Area. The National Register Criteria for Evaluation can be found at 36 CFR § 60.4. EPA has not yet received information from the Community regarding any additional historical properties for inclusion in the NHPA Section 106 process. However, if the Community wishes to submit any information on historic properties that have traditional religious and cultural importance to the Community that have not yet been identified within the Property Area, I am providing this one last opportunity to do so. To the extent you should have any concerns about the sensitivity of this information, please note that EPA will follow Section 304 of the NHPA and the procedures set forth in 36 CFR § 800.11(c), when applicable, to address confidentiality concerns. We are, of course, open to discussion about these issues, while protecting the Community's interests.

At this point, we would like to invite comments on the potential impacts from the undertaking on the historical properties that have been identified in the Property Area. Based on the information that Curis Arizona has provided to EPA, the proposed project has effects on historic properties within the Property Area as described in the enclosed Section 106 package, dated January 31, 2013, prepared for Curis Arizona by Western Cultural Resource Management, Inc. EPA is providing the document to consulting parties for comment and invites your view on the effects as described in the document. Please provide any written comments you have and any additional information, within 30 days of the date of this letter to:

Attn: Nancy Rumrill
U.S. EPA Region 9, (WTR-9)
75 Hawthorne Street
San Francisco, CA 94105

As we have previously stated, EPA will continue to coordinate with and seek input from the Community and other consulting parties until the NHPA 106 process is complete.

If you have any questions regarding the proposed project or the consultation process, please feel free to call me at (415) 972-3971, or contact Nancy Rumrill at (415) 972-3293. We look forward to continue working with you on this matter.

Sincerely,

Elizabeth Jones for D.A. 2/8/13

David Albright
Manager, Ground Water Office

Enclosure

Cc w/o enc: Thomas L. Murphy, GRIC
Barnaby V. Lewis, GRIC THPO
Rudy Mix, Acting Director, GRIC DEQ
James Garrison, SHPO, Arizona State Parks
Dan Johnson, Curis Arizona (via e-mail)



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